IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(Crl.).No. 121 of 2007(S)

PETITIONER:

O. MATHEW CHERIAN @ BABU,
OTTATHENGIL PEACE BHAVAN,
NIRANAM, THIRUVALLA.

BY ADV. SRI.MVS.NAMBOOTHIRY

RESPONDENTS:
---

1. THE DISTRICT SUPERINTENDENT OF POLICE,
   PATHANAMTHITTA.

2. THE DY.SUPERINTENDENT OF POLICE,
   THIRUVALLA.

3. THE SUB INSPECTOR OF POLICE,
   PULIKKEEZH.

4. JUBESH KHAN, S/O.NOUSHAD,
   THOPPIL PUTHENPURAYIL, NIRANAM.

5. NOUSHAD, RESIDING AT DO. DO.

6. NISSAR, RESIDING AT DO. DO.

R1 to R3 BY ADDL. DGP. SRI V.K.MOHANAN

R5 & R6 BY ADV. SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS
SRI.AJITH MURALI

THIS WRIT PETITION (CRIMINAL) HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(CRL.)No.121/2007

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE BIRTH CERTIFICATE.

EXT.P2 TRUE COPY OF THE FIR IN CRIME NO.92/2007 OF PULIKEEZH POLICE STATION.

TRUE COPY

P.S.TO JUDGE.

P.R. RAMAN & K. HEMA, JJ.

W.P.(CRL) NO. 121 OF 2007

DATED THIS, THE 7TH DAY OF JUNE, 2007.

J U D G M E N T

Raman, J.

Petitioner is the father of Baisy Anna Cheriyan alias Deepa, who is alleged to have been kidnapped by the 4th respondent on 23.4.2007. It is alleged that the aforesaid girl, who is a minor, is thus under the illegal custody of Respondents 4 to 6. Crime No. 92/2007 was registered by the Pulikkezh police under the caption " man missing" and subsequently, a case was registered under Section 366A read with Section 34 of the Indian Penal Code. But since the girl was not traced out, alleging that police is not taking effective steps, this writ petition is filed.

2. This court issued notice to Respondent No.2 to 6 by special messenger. R2 and R3 were served. Daughter of R5 accepted notice on behalf of Respondents 4 and 5. Notice sent to 6th respondent returned stating that there is no such addressee in that place. On 18.5.2007, Respondents 1 to 3 were directed to trace out the girl and produce her before this Court and the case was adjourned to 25.5.2007 and then, to

7.6.2007. In the meantime, the girl was traced out and she was produced before the Judicial Magistrate of the First Class, Thiruvalla on 2.6.2007, whereupon the Magistrate passed an order giving custody of the minor girl to her father's brother, as the girl was not willing to go along with her parents. A copy of the said order was produced before us by the learned Additional Director General of Prosecution and we have perused the same.

3. Since the girl is already given custody by a court's corder to the petitioner's brother, there is no illegal custody as of now. As such, further proceedings will stand dropped. We have in this connection interrogated the girl, the petitioner and his brother and the girl has agreed to continue to stay with the brother of the petitioner.

Accordingly, this writ petition is closed.

P.R. RAMAN,
(JUDGE)

K. HEMA,
(JUDGE)

knc/-